

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	Keller-Tuberg	Docket:	135924
Serial No.:	10/059,697	Art Unit:	2157
Filed:	January 29, 2002	Examiner:	Sargon N. Nano
Title:	Facilitating Improved Reliability of Internet Group Management Protocol Through The Use of Acknowledge Messages		

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Commissioner:

It is respectfully requested that a review be made of the final rejection prior to filing of the Appeal Brief. This request is being filed simultaneously with a Notice of Appeal. No amendments are filed with this request. Applicant believes that there are clear errors in the final rejection mailed January 30, 2006 (Final Office Action); and thus, the final rejection has omissions of one or more essential elements needed for a prima facie rejection for the reasons stated below.

REMARKS

Claims 1-34 remain in this application. No claims have been amended or canceled.

Claims 1-34 stand rejected under 35 USC 102(e) as being anticipated by *Kumar* et al. (6,269,080). Applicant respectfully traverses.

Under a 102 rejection, *Kumar* must include within its four corners, each and every element of, in the detail and the manner of, the claims of the invention. Applicant respectfully asserts that *Kumar* does not teach or disclose sending an acknowledgement of a request for altering the membership status of a receiver in response to receiving a request to alter a multicast group status of the receiver. In response to the previous argument, the Office Action states that *Kumar* has a provision for **notifying** a requesting system when a membership request is lost or denied, in that, if there is an absence of data transmission the requesting system detect this absence and re-request the data transmission (col. 6, line 64 - col.7, line10 and fig. 4). Applicant fails to see any **acknowledgement** to the requesting system of the **status** of the request to receive data. It simply suggests that the receiving system guesses something must be wrong because no data was received, this is not an acknowledgement sent which indicates the status of the membership request (such as, for example, was the request lost, or accepted, or denied).

The Office Action also cited col. 11, line 55 – col. 12, line 15, from the Advisory Action dated 4/21/06, stating “. . . the FDSP server sends a unicast NACK acknowledgement message to the receiver notifying the receiver for data distribution and therefore by doing so notifying the receiver about the status of the request”. Applicant respectfully disagrees. Firstly, the cited portion states that a unicast NACK **Solicitation** message is sent by the FDSP server, and not an NACK **acknowledgement** message. Applicant agrees that the NACK Solicitation message is known and also asserts that the NACK Solicitation message is sent to prepare the receiving system for data distribution, such as communicating file size. However, it is not an acknowledgement sent to designate a resulting membership status associated with the request for altering the present membership status.

The presently claimed invention addresses the problem of prior systems not having a provision for notifying a requesting system when a particular **membership status** request is lost, or accepted, or denied (see claim 2), for example; and can include other information, such as cause of a denial, for example.

These Membership Acknowledgement messages can be used by set top box, for example, to display a message on the member's television indicating the membership status. For example, if a negative acknowledgement message is received, the set top box could display a message to the member indicating that his request to join a multicast group has been denied. Further, the negative acknowledgement messages can further include supplemental membership action information in an additional cause information field of the IGMP message (see claim 5), to indicate reasoning why the request was denied, for example. Causes could include; not authorized, network busy, insufficient resources on the network connection (see page 11, line 23 – page 12, line 8)

Claim 1 states, receiving an Internet Group Management Protocol (IGMP) Membership Report message designating a request for altering a present membership status with respect to designated multicast information; and determining a membership action associated with the IGMP Membership Report message; and preparing a membership acknowledge message in response to determining the membership action, wherein the membership acknowledgment message designates a resulting membership status associated with the request for altering the present membership status; and transmitting the membership acknowledge message for reception by a requesting system. Applicant has reviewed *Kumar*, and particularly those sections cited by the Office Action, and can find no teaching of the combination of the above-mentioned aspects of Claim 1. For at least this reason alone, Applicant believes the presently claimed invention is distinguishable over *Kumar*. Applicant has also noted other features distinguishable over *Kumar*, as above-described (i.e., claims 2 and 5)

Under a 102 rejection, *Kumar* must include within its four corners, each and every element of, in the detail and the manner of, the claims of the invention. Since *Kumar* does not teach every element as arranged in Claim 1, it should be withdrawn as a reference under 35 USC 102(e). Applicant respectfully applies the same arguments to the other independent Claims 12, 13 and 24 as they contain similar elements as noted above with regard to Claim 1. Therefore, Applicant believes all independent claims (and all claims depending therefrom) are distinguishable over *Kumar*.

CONCLUSION

For the above reasons, the rejections in the Final Office Action have omissions of one or more essential elements needed for a prima facie rejection. Therefore, it is respectfully requested that the rejection of the claims be withdrawn and full allowance granted. Should the Examiner have any further comments or suggestions, please contact Bobby Slaton at (972) 519-2295.

Respectfully submitted,

ALCATEL

Dated: May 1, 2006

/Bobby D. Slaton/

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